

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

IN RE: C.R. BARD, INC.
PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION

MDL No. 2187

THIS DOCUMENT RELATES TO

Joan Mello v. C.R. Bard, Inc., et al.

2:12-cv-06755

MEMORANDUM OPINION AND ORDER

Pending are (1) Defendants' Motion to Dismiss, filed by Tissue Science Laboratories Limited and Sofradim Production SAS on March 30, 2018 [ECF No. 18]; and (2) Defendant C.R. Bard, Inc.'s Notice of Joinder in Defendants' Tissue Science Laboratories Ltd. and Sofradim Production SAS's Motion to Dismiss, filed July 17, 2019 [ECF No. 23]. Defendants assert in the first Motion [ECF No. 18], joined by C. R. Bard, Inc. ("Bard") [ECF No. 23], that plaintiff's case should be dismissed with prejudice for failure to comply with court orders, including the failure to timely provide the defendants with required pretrial discovery in violation of Pretrial Order Numbers 27, 28 and 275. Plaintiff, who is *pro se*, has not responded. It appears from the docket that the plaintiff's address is not current.

On July 10, 2019, the court entered a Show Cause Order directing plaintiff to show cause on or before July 24, 2019, why the defendants who filed the first motion should not be dismissed. [ECF No. 22]. The court sent a copy of this order to plaintiff at her last known address and posted it on the court's public website. The order was

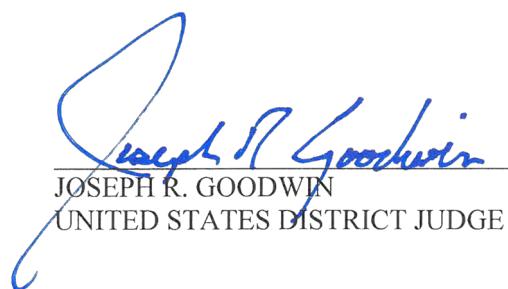
returned undeliverable to plaintiff. [ECF No. 21]. Plaintiff did not show cause or otherwise respond.

The court finds, pursuant to Rules 16 and 37 of the Federal Rules of Civil Procedure and after weighing the factors identified in *Wilson v. Volkswagen of Am., Inc.*, 561 F.2d 494, 503-06 (4th Cir. 1977), that this case should be dismissed without prejudice for plaintiff's failure to respond to the show cause order and otherwise comply with discovery deadlines in compliance with the court's previous pretrial and other orders.

Therefore, the court **ORDERS** that the motion to dismiss [ECF No. 18] is **GRANTED in part** to the extent the moving defendants, joined by Bard, seek dismissal and **DENIED in part insofar as defendants seek dismissal with prejudice**. The court **ORDERS** that the defendants are dismissed without prejudice. No other defendants remain and the case is stricken from the docket and closed.

The court **DIRECTS** the Clerk to send a copy of this order to counsel of record and plaintiff at her last known address.

ENTER: August 8, 2019



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE